

IN THE

Supreme Court of the United States

OCTOBER TERM, 1988

CHESAPEAKE AND OHIO RAILWAY COMPANY,
Petitioner,

v.

NANCY J. SCHWALB AND WILLIAM MCGLONE,
Respondents.

NORFOLK AND WESTERN RAILWAY COMPANY,
Petitioner,

v.

ROBERT T. GOODE, JR.,
Respondent.

**PETITIONERS' REPLY BRIEF
ON WRIT OF CERTIORARI TO THE
SUPREME COURT OF VIRGINIA**

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Petitioners Chesapeake and Ohio Railway Company and Norfolk and Western Railway Company¹ jointly submit this brief in reply to the respondents' briefs on the merits in these consolidated cases.

¹ Pursuant to Rule 28.1 Petitioners state that the prior listings of corporate affiliates in their Briefs on the Merits are currently accurate.

ARGUMENT

Respondents Schwalb, McGlone, and Goode want to rewrite the Longshore and Harbor Workers' Compensation Act (LHWCA), 33 U.S.C. § 901 *et seq.*, to exclude:

- (1) all pierside workers who are employed by railroads; and
- (2) all pierside workers who directly further longshoring operations without actually loading cargo.

In other words, respondents want to rewrite the LHWCA to include restrictions never contemplated by its authors. Respondents' formulation of the LHWCA status requirement, like that of the Virginia Supreme Court, has no basis in either the actual language or the legislative history of the Act and is inconsistent with decades of judicial and administrative decisions. This Court should confirm the initial determinations in these cases that the LHWCA extends to railroad workers engaged in maritime employment whose daily work ensures the ongoing productiveness of shiploading equipment.

I. The LHWCA Extends to Railroad Workers Who Are Engaged in Maritime Employment

Since 1908, the Federal Employers' Liability Act (FELA), 45 U.S.C. §§ 51-60, has provided a mechanism for the recovery of tort damages by railroad employees injured in the course of railroad employment. However, beginning with the adoption of the LHWCA in 1927, railroad workers injured in maritime employment have been compensated under the LHWCA. The LHWCA expressly provides that an

employer's liability for any injury to a covered employee is exclusive and supplants any other basis for liability. 33 U.S.C. § 905 (1982 and Supp. IV 1986). Although the Act expressly excludes some categories of workers found on or near maritime locations,² the LHWCA has never excluded railroad workers as a class from its coverage. In 1928, Congress enacted legislation adopting the LHWCA to compensate workers' injuries in the District of Columbia; railroad workers *were* expressly excluded from the coverage of the District of Columbia Workers' Compensation Law.³ This statutory history leads to the inescapable conclusion that Congress was aware that the LHWCA applied to railroad workers and that Congress deliberately included railroad workers outside the District of Columbia within the LHWCA's coverage.

² For example, Congress specifically excluded seamen from LHWCA coverage under the 1927 Act and retained this exclusion in the 1972 and 1984 Amendments, presumably in response to the stated preference of seamen to be compensated under the Jones Act. An exception for railroad employees was considered but dropped from the legislation prior to passage of the LHWCA in 1927. See *Nogueira v. New York, N.H. & H.R.R.*, 281 U.S. 128, 136 (1930). The deletion of a provision prior to the adoption of a statute "strongly militates against a judgment that Congress intended a result that it expressly declined to enact." *Gulf Oil Corp. v. Copp Paving Co.*, 419 U.S. 186, 200 (1974).

³ Respondent Goode argues that the exclusion of railroad workers from the District of Columbia Workers' Compensation Law should be construed to graft this exclusion onto all federal compensation acts. See Goode Brief on the Merits at 10 n.2. To paraphrase the *Nogueira* opinion, "the fact that a similar exception was left out of the Longshoremen's and Harbor Workers' Compensation Act and was inserted in the later statute works against, rather than for, [Goode's] contention." 281 U.S. at 138.

Nothing in the plain language of the original LHWCA or any of its amendments even hints at a "railroad worker" exception to the exclusive coverage of the Act. "Absent a clearly expressed legislative intention to the contrary, that language must ordinarily be regarded as conclusive." *American Tobacco Co. v. Patterson*, 456 U.S. 63, 68 (1982). By contrast, the LHWCA amendments have added specific exceptions for certain categories of workers. See, e.g., 33 U.S.C. § 902(3) (1982) (exceptions for masters and members of crew of any vessel and persons engaged to load, unload, or repair small vessels); 33 U.S.C. § 902(3) (Supp. IV 1986) (additional exceptions for, *inter alia*, marina employees, restaurant employees, and clerks working exclusively in offices). Where Congress explicitly enumerates specific exceptions to coverage, "additional exceptions are not to be implied, in the absence of evidence of a contrary legislative intent." *Andrus v. Glover Constr. Co.*, 446 U.S. 608, 617 (1980).

Since the passage of the original Act in 1927 and also after the 1972 LHWCA amendment added the new "status" test set forth in Section 2(3), numerous judicial and administrative decisions have confirmed LHWCA coverage for railroad workers. See, e.g., *Pennsylvania R.R. v. O'Rourke*, 344 U.S. 334 (1953); *Nogueira v. New York, N.H. & H.R.R.*, 281 U.S. 128 (1930); *Vogelsang v. W. Maryland Ry.*, 670 F.2d 1347 (4th Cir. 1982) (LHWCA exclusive remedy for railroad employee injured while adjusting lids on railcars through which coal flowed since engaged in integral part of loading process); *Price v. Norfolk & W. Ry.*, 618 F.2d 1059 (4th Cir. 1980) (LHWCA exclusive remedy for railroad employee injured while painting

loading tower since engaged in maintaining equipment essential to loading process); *Harmon v. Baltimore & O.R.R.*, 560 F. Supp. 914 (1983) (LHWCA exclusive remedy for railroad employee injured while repairing coal loading equipment), *aff'd*, 741 F.2d 1398 (D.C. Cir. 1984); *Suppa v. Lehigh Valley R.R.*, 13 BEN. REV. BD. SERV. (MB) 374 (March 31, 1981) (railroad worker injured in loading process entitled to benefits under LHWCA). Presumably aware that railroad workers were consistently considered within the scope of the Act, Congress in 1984 again amended the LHWCA without any indication that this construction of the Act was contrary to its intent.⁴ When Congress amends a statute with a long history of consistent judicial and administrative interpretation, the retained portions of the act are presumed to incorporate that

⁴ In fact, in an effort to clarify the definition of "maritime employee" to exclude some peripheral workers not intended to receive LHWCA benefits, Congress provided an express exclusion for workers employed by transporters who "are temporarily doing business on the premises of [a maritime] employer . . . and [who] are not engaged in work normally performed by employees of that employer under this chapter." 33 U.S.C. § 902(3)(D) (Supp. IV 1986). The fact that Congress carved out an exception to coverage for transportation workers, but further limited the exception as quoted above, indicates that transportation workers who *are* regularly on the premises performing the normal work of their employer are intended to remain within the scope of the Act. It is significant that § 902(3)(D) is all that remains of a proposed exclusion for persons engaged in railcar or mechanical truck loading or unloading considered in in connection with LHWCA Amendments proposed in 1981. See 127 Cong. Rec. 9829 (1981). The proposed 1981 exclusion was never reported out of the Committee. See S. Rep. No. 498, 97th Cong., 2d Sess. (1982).

interpretation. *Lorillard v. Pons*, 434 U.S. 575, 580-81 (1978).

Respondents Schwalb and McGlone protest that Congress failed to announce during the legislative process culminating in the 1972 LHWCA Amendment that the LHWCA was intended to pre-empt the FELA. See Schwalb/McGlone Brief on Merits at 8. Respondent Goode states that this omission from the legislative history of the 1972 and 1984 amendments "indicates that there was no intention to effect [sic] the rights of railroad workers such as Robert Goode."⁵ See Goode Brief on Merits at 8. But it is foolhardy to divine legislative intention from legislative omission: the judicial function is "to apply statutes on the basis of what Congress has written, not what Congress might have written." *United States v. Great N. Ry.*, 343 U.S. 562, 575 (1952).⁶

Respondents argue that the intent of Congress should be inferred from the failure of the railroad industry to testify at hearings on the LHWCA Amendment. See Schwalb/McGlone Brief on Merits at

⁵ Petitioners agree that Congress showed no intention to change the applicability of the LHWCA to railroad workers in either amendment: they were covered before and afterward.

⁶ As Rep. Miller proclaimed:

We meant what we said and we said what we meant. We do not want to see protracted court battles over the intent of Congress. If it isn't in the statute or clarified in the statement of the managers, it should be accorded little if any legislative intent.

130 Cong. Rec. 25,902 (1984) (remarks of Rep. Miller introducing Conference Report on S. 38, Longshoremen's and Harbor Workers' Compensation Act Amendments of 1984).

13; Goode Brief on Merits at 9. It is patently absurd to attribute an "intent" to a legislative body based on the failure of an industry segment to express an opinion on pending legislation. It is more likely that Congress interpreted the absence of "sophisticated and politically active employers, such as the railroads, and their equally sophisticated and active employee representatives"⁷ as the acquiescence of the industry in the accepted application of the Act to railroad employees.

Respondents also complain that the petitioners seek to deny Goode, Schwalb and McGlone their "traditional, superior remedy" under the FELA. *See* Schwalb/McGlone Brief on Merits at 16; Goode Brief on Merits at 7-8. But petitioners seek only to follow the statutory course charted by Congress: where railroad workers properly fall within the definition of maritime employees, the LHWCA provides their exclusive remedy. Further, while these three railroad workers might be willing to gamble on an eventual "superior" award at the conclusion of an FELA trial, any decision regarding the status of these respondents will affect other workers who might prefer the certainty and immediate benefits provided by the non-tort LHWCA compensation program. Particularly where the worksite injury does not result from employer negligence, the LHWCA no-fault remedy is superior to the FELA, which would provide no recovery.⁸

⁷ *See* Goode Brief on Merits at 9.

⁸ Philosophically, no-fault compensation programs are generally viewed as superior to liability acts, which consume in litigation funds that could be used for worker compensation. *See* Brief for

Finally, respondents contend that they should be excluded from LHWCA coverage because they are entitled to receive various benefits (retirement, unemployment, and health insurance for non-work sickness or injury) accruing specially to employees of interstate railway companies. See Schwalb/McGlone Brief on Merits at 14; Goode Brief on Merits at 4-5. Nowhere in the Act is there an exclusion from coverage for workers who have special additional retirement or disability benefits. These extraneous advantages, like union membership, are unrelated to the purpose of the Act and are simply irrelevant to the determination of respondents' status under the LHWCA. See *Northeast Marine Terminal Co. v. Caputo*, 432 U.S. 249, 269 n.30 (1977).

In sum, while respondents would fall within the scope of the FELA absent the exclusivity provision of the LHWCA, their status as maritime workers requires their work-injury claims to be adjusted under the LHWCA. Respondents' theory that railroad em-

the United States as Amicus Curiae Supporting Petitioners at 23 n.28. The LHWCA has achieved its stated purpose of providing "an adequate, prompt, and equitable system of compensation." S. Rep. No. 1125, 92d Cong., 2d Sess. (1972). By contrast, there have been efforts to abolish the FELA and replace it with a compensation system almost since its inception. See 4 A. Larson, *Larson's Workmen's Compensation Law* § 91.74 (1989) (since 1912 FELA has provoked unfavorable comparison with state compensation acts). As recently as April 1989, the Senate Committee on Commerce, Science and Transportation considered an amendment to S. 462 (Amtrak Authorization Bill), 101st Cong., 1st Sess. (1989), that would have removed Amtrak from the FELA for three years. Senator Kasten, the sponsor of the amendment, has stated that he will offer the amendment for consideration by the entire Senate, even though the committee's tie vote (10 to 10) removed the FELA amendment from the reported bill.

ployees are excluded from LHWCA coverage is a "theory that nowhere appears in the Act, that was never mentioned by Congress during the legislative process, that does not comport with Congress' intent, and that restricts the coverage of a remedial Act designed to extend coverage. . . ." *Northeast Marine Terminal*, 432 U.S. at 278.

II. The LHWCA Extends to All Workers Who Directly Further Longshoring Operations

Congress implemented the LHWCA to cover all workers (other than ships' crews) who are engaged in maritime employment, employed by a maritime employer, and injured at a maritime situs. The formula adopted in 1972 has been refined by judicial and administrative decisions and by amendment in 1984. Nevertheless, the pre-eminent concept of the Act is the compensation of injuries to those workers who regularly provide service to various maritime industries (loading, unloading, building, and repairing ships). In addition to the enumerated examples of maritime employees, 33 U.S.C. § 902(3) (the "status provision") specifically encompasses "harbor-workers" and any persons other than longshoremen who are "engaged in longshoring operations."⁹ This language, being undefined in the Act, must be presumed to bear its ordinary and accepted meaning. *Escondido Mutual Water Co. v. La Jolla Band of Mission Indians*, 466 U.S. 765, 772 (1984). Full effect must be given to each word Congress used in defining the employees

⁹ This Court has already construed the word "including" in § 902(3) to "indicate that 'longshoring operations' comprise a part of the larger group of activities that make up 'maritime employment.'" *P.C. Pfeiffer Co. v. Ford*, 444 U.S. 69, 77 n.7 (1979) (citing Webster's New Collegiate Dictionary).

entitled to LHWCA coverage so that the legislative purpose expressed by those words is not diminished or distorted. *62 Cases, More or Less, Each Containing Six Jars of Jam v. United States*, 340 U.S. 593, 596 (1951).

The term "longshore" means "existing, occurring, employed, or working along the shore or waterfront"¹⁰ and "operation" means "a process or action that is part of a series in some work."¹¹ Thus, employees are "engaged in¹² longshoring operations" if they are participating in work occurring along the shore or waterfront. A narrower definition would circumscribe those employees working along the shore or waterfront who participate in the process that results in the movement of cargo to or from ships. With respect to the term "harbor worker," the Benefits Review Board has adopted the following definition for purposes of determining LHWCA status:

For future application of the "status" test, at least *those persons directly involved in the construction, repair, alteration or maintenance of harbor facilities* (which include

¹⁰ Webster's *New World Dictionary of the American Language* (2d College ed.). A "longshoreman" is a "person who works on the waterfront loading and unloading ships." *Id.* Congress did not restrict coverage to "other persons performing the work of longshoremen."

¹¹ *Id.* This noun is also defined as "the act, process, or method of operating," leading back to the definition of the verb "to operate," which denotes bringing about or acting to produce an intended or desired effect. *Id.* A person who furthers longshoring, then, is a person who is engaged in longshoring operations.

¹² "Engaged in" connotes "being involved in" or "taking part in" an activity. *Id.*

docks, piers, wharves and adjacent areas used in the loading, unloading, repair or construction of ships) will be deemed "harbor workers" within the meaning of Section 2(3) of the Act.

Stewart v. Brown & Root, Inc., 7 BEN. REV. BD. SERV. (MB) 356, 365 (Jan. 12, 1978) (emphasis supplied), *aff'd sub nom. Brown & Root, Inc. v. Joyner*, 607 F.2d 1087 (4th Cir. 1979), *cert. denied*, 446 U.S. 1087 (1980). The record below shows that respondents Goode, Schwalb and McGlone were, by definition, harbor workers who were also engaged in longshoring operations, as contemplated by 33 U.S.C. § 902(3).

In determining the intended scope of the LHWCA status provision the crucial factor is the "nature of the activity to which a worker may be assigned." *P. C. Pfeiffer Co. v. Ford*, 444 U.S. 69, 82 (1979). The lower courts found that these respondents were employed in jobs that are integrally related and essential to the coal-loading process, an undeniably maritime activity. Despite respondent Goode's self-serving characterization that he is a traditional railroad worker,¹³ his job assignment was pier machinist, a job the trial court found to be overwhelmingly devoted to "main-

¹³ Goode argues that the retarder he was repairing was identical to retarders used throughout all rail systems. This argument, first, ignores the uncontradicted evidence introduced at the hearing on jurisdiction that the retarders on the dumpers are unique in configuration and in operation. [JA: 145] Second, it disregards the crucial finding by Judge Waters that "the sole purpose of this retarder was to stop the loaded cars on the dumper to facilitate the transportation of coal from shore to vessel by dumping the coal on conveyor belts which feed the coal into the belly of docked vessels at pier 6." [JA: 35]

taining and repairing machines and equipment essential to the coal dumping operation." [JA: 36] Goode's own witnesses stated that pier machinists are regularly assigned to work on pier machinery over the water. [JA: 191, 195] Similarly, respondents Schwalb and McGlone portray themselves as typical railroad workers performing janitorial services.¹⁴ Yet the trial court found that Schwalb, who cleaned coal each shift from the machinery and conveyor belts in the loading towers and dumpers, was engaged in work "essential to the loading and unloading of coal by conveyor belt to the ships moored at the docks." [JA: 29] The trial court viewed McGlone's job of cleaning spilled coal from the loading towers and dumpers to be essential to the unimpeded flow of coal into ships. [JA: 31] The towers maintained by Schwalb and McGlone are located offshore on the pier. [JA: 94]¹⁵ The jobs to

¹⁴ Respondents Schwalb and McGlone contend that their janitorial duties place them within the exception of *Dravo Corp. v. Banks*, 567 F.2d 593 (3d Cir. 1977). *Dravo*, a pre-Pfeiffer case, supports LHWCA coverage if there is a "close functional nexus" between the job in question and maritime activity or if the worker's primary duties are a "necessary incident" of maritime activity. 567 F.2d at 595. Unlike *Banks*, whose primary job was cleaning up ordinary trash at an industrial plant, Schwalb and McGlone were retrieving cargo that had fallen from the conveyor belts so that the loading equipment would not jam. See JA: 29 and JA: 31 (unless stray coal removed, coal loading would stop). Their work has a close functional nexus to the coal-loading process and is a "necessary incident" of a decidedly maritime activity. Thus, Schwalb and McGlone are maritime workers under the *Dravo* rationale.

¹⁵ Contrary to respondents' contentions, petitioners do not ask the Court to find coverage simply on the basis of injury at a covered situs, see Schwalb/McGlone Brief on Merits at 11, nor to extend the covered situs back to the coal mines. See Goode

which respondents were regularly assigned and the tasks actually being performed at the time each was injured were predominantly and essentially maritime in nature. There is no principled basis for denying the applicability of the LHWCA to these employees.

To avoid the consequences of acknowledging the essential maritime nature of their work, respondents would rather focus on isolated aspects of their jobs, such as Schwalb's additional responsibility for sweeping the oil house or McGlone's additional work cleaning bunkhouses or Goode's very infrequent participation in putting hopper cars back on track in emergency derailments at the loaders or the fact that none of the respondents actually loaded or unloaded coal. The problem with focusing on these isolated details is that one quickly loses sight of the "nature of the activity" in general. Impaired by such analytical myopia, it would be possible to confuse Blundo, the checker, with a court clerk;¹⁶ or Caputo, the terminal laborer, with a supermarket shopper¹⁷ or a linetender with a cowboy.¹⁸ The fallacy in this analysis is that it disregards the critical component: the activity that is furthered by the work performed and that infuses the particular task with purpose. When the focus shifts back to the essential nature or purpose of their work, Blundo and Caputo regain their status of mar-

Brief on Merits at 18. As this Court has observed previously, § 3(a) provides the geographic limits of the Act's coverage. *Pfeiffer*, 444 U.S. at 78. These cases raise issues of status, not situs.

¹⁶ Both scrutinize groups of items for conformance to standards, mark them with identifying numbers, and then stack them in large metal boxes.

¹⁷ Both wheel cheeses in carts.

¹⁸ Both secure moving objects with looped ropes.

itime employees and respondents are correctly perceived as engaged in maritime activity furthering the loading of coal into ships.

Respondents' references to "traditional railroad work" and "traditional longshoring work" simply cloud the status issue and demonstrate the futility of expecting these outmoded concepts to solve today's jurisdictional issues. Under the standard proposed by Goode, "if a worker is not performing traditional longshoring work or is not involved in moving cargo between ship and land transportation, the worker is not covered by the LHWCA." Goode Brief on Merits at 19. *See id.* (contending Goode performing traditional railroad work, not traditional longshoring work). Respondents Schwalb and McGlone echo Goode in their contention that "LHWCA benefits should not be extended to those employees who are not actually involved in loading or unloading cargo between ship and land transportation or performing tasks traditionally performed by longshoremen." Schwalb/McGlone Brief on Merits at 11. *See id.* (Schwalb and McGlone not engaged in tasks traditionally performed by longshoremen). Yet, as this Court has acknowledged,¹⁹ the 1972 Amendment was inspired by the shift away from "traditional" longshoring operations due to the development of mechanized loading technology, such as LASH loading systems or petitioners' automated coal-loading systems. Neither the original Act nor its amendments premise LHWCA coverage on the performance of "traditional longshoring work"

¹⁹ *See Pfeiffer*, 444 U.S. at 74 (Congress expanded LHWCA coverage in 1972 in part due to changes in traditional longshore functions occasioned by advent of containerization).

and there is no basis to infer such a requirement from the legislative history.

Goode, Schwalb, and McGlone were pierside workers who were regularly assigned to repair and maintain shiploading equipment and structures used in or related to ship-loading. For more than a decade, such employees have been included under the LHWCA even if they never load or unload cargo and never work over navigable water. *See* Pet. Brief on Merits in No. 88-127, at 12-17 (discussing numerous federal and administrative decisions holding repair and maintenance workers to have status of maritime employees). Congress has never excluded from LHWCA coverage those harbor workers who repair or maintain loading and unloading equipment.²⁰ Congress restricted benefits for clerical employees who work exclusively in offices,²¹ but no similar restriction applies to repair and maintenance workers. Even if such a restriction can be imposed by analogy to exclude

²⁰ As the United States points out in its Brief in Support, the 97th Congress considered and deliberately rejected an exception for maintenance and repair workers. *See* Brief for the United States as Amicus Curiae Supporting Petitioners at n.13 and accompanying text. The logical inference from this legislative decision is that Congress considered such employees to be correctly included in the LHWCA program and intended that such coverage continue. *See supra* note 2.

²¹ Section 902(3) was amended in 1984 to exclude from coverage "individuals employed exclusively to perform office clerical, secretarial, security, or data processing work." The rationale for this exclusion was that these workers "are not intimately concerned with the movement and processing of ocean cargo and . . . are themselves confined, physically and by function, to the administrative areas of the employer's operations." 130 Cong. Rec. 25,903 (1984) (remarks of Rep. Miller).

from the LHWCA all maintenance workers who only clean office spaces and repair workers who only work in shops, these respondents would nevertheless remain within the Act: they are the Blundo's of the repair and maintenance trade.

Any decision to exclude Goode, Schwalb and McGlone from coverage will affect the status of, and therefore the benefits available to, a wide circle of other harbor workers who are ineligible for FELA benefits. The decision in these cases will either validate the application of the Act by the federal circuit courts and the Benefits Review Board to all workers who regularly repair and maintain maritime equipment or cast the majority of these workers back into the miasma of the divers state compensation acts. This result would be inconsistent with the overall intent of Congress to create an expanded and uniform system of coverage for all employees exposed to the same maritime hazards.

Respondent Goode, admitting that a "line must be drawn somewhere," has chosen the Belt Change (BC) House as the correct dividing point. "From this point on," Goode contends, "the machinery is clearly an integral part of the ship loading process." See Goode Brief on Merits at 18. The BC House, even as Goode describes it, is simply one interchange among many where the coal moves from one conveyor belt to another in its progress from the dumper to the ship.²²

²² Based on Goode's evidence at the hearing on jurisdiction, Judge Waters found that the loading process begins at least at the Barney Yard, which acts as a staging area for the coal delivered to Lanbert's Point. [JA: 35] In the coal-loading process, individual coal cars are moved one by one across the scales,

Even if there were some magic associated with the BC House meriting its designation as the LHWCA demarcation line, respondents would nevertheless be covered by the Act since they all regularly worked seaward of this point. But the major fallacy of Goode's contention is that it resurrects the "point of rest" rationale rejected by this Court in *Northeast Marine Terminal*, 432 U.S. at 278. If the BC House were to divide covered from non-covered employment, Goode, Schwalb and McGlone and all employees in their job categories would walk in and out of coverage during each shift. Selecting a jurisdictional gateway in the middle of the loading sequence would "revitalize the shifting and fortuitous coverage that Congress intended to eliminate." *Id.* at 274. This result is inimical to the intent of Congress and must be avoided.

CONCLUSION

Petitioners contend that their employees who regularly maintain or repair loading equipment on or near the piers are comprehended by the terms of § 902(3) and were intended by Congress to receive LHWCA benefits. The judgments of the Virginia Supreme Court are inconsistent with the language and the intended scope of the Act and are incompatible with rulings by federal and administrative judges on similar facts. Respondents Schwalb, McGlone and Goode are maritime employees whose injuries should be compensated under the LHWCA.

through the thaw sheds, and into the dumpers. The coal that is dumped from each car travels on the hopper feeder belt, to the A belt, the B belt, the C belt, the D belt, the E belt, and the F belt into the hold of the vessel. The Belt Change, or BC, House is "just a transfer point where the belt dumps from B belt onto C belt." [JA: 139]

Respectfully submitted,

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